

TYPE III DEVELOPMENT & ENVIRONMENTAL REVIEW, STAFF REPORT & RECOMMENDATION

Form DS1300 CUP/PSR



Project Name: OUTSIDE STORAGE AREA EXPANSION

Case Number: CUP2009-00009, PSR2009-00035 & SEP2009-00077

Location: 7117 NE 47th Avenue

Request: The applicant is requesting a conditional use permit (CUP) and a site plan approval for a trucking terminal, and to expand and maintain the existing gravel outdoor storage area for truck trailers that was developed without site plan review. The approximately 3.97 acre property is zoned Light Industrial (ML).

Applicant: The LMRK Group, LLC
PO Box 601
Woodburn, OR 97071
(503) 819-7995; E-mail: Mitch_magenheimer@yahoo.com

Contact Person: Mitch Magenheimer
24915 S. Mulino Road
Canby, OR 97013
(503) 819-7995; E-mail: Mitch_magenheimer@yahoo.com

Property Owner: (Same as Applicant)

RECOMMENDATION DENIAL

DS Manager's Initials: MB Date Issued: February 10, 2010

February 25, 2010

County Review Staff:

	<u>Name</u>	<u>Phone Ext.</u>	<u>E-mail Address</u>
Development Services Manager:	Michael Butts	4137	Michael.Butts@clark.wa.gov
Planner:	Michael Uduk	4385	Michael.uduk@clark.wa.gov
Wetland Biologist:	Brent Davis	4152	Brent.Davis@clark.wa.gov
Engineer Supervisor: (Trans. & Stormwater):	Tom Grange P. E.	4102	Tom.Grange@clark.wa.gov
Engineer (Trans. & Stormwater):	Doug Boheman, P. E.	4219	Doug.boheman@clark.wa.gov
Engineering Supervisor: (Trans. Concurrency):	Steve Schulte P. E.	4017	Steve.schulte@clark.wa.gov
Engineer (Trans. Concurrency):	David Jardin	4354	David.jardin@clark.wa.gov
Fire Marshal Office	Tom Scott	3323	Tom.scott@clark.wa.gov

Comp Plan Designation: Light Industrial (ML)

Parcel Number(s): Tax Lot 1/12 (099725-000) located in the NE ¼ of Section 12, Township 2 North, Range 1 East of the Willamette Meridian.

Applicable Laws:

Clark County Code Chapter: 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.385 (Storm Water Drainage and Erosion Control), 40.610 (Impact Fees), 40.230080 (Light Industrial (ML)), 40.520.030 (Conditional Use Permits, CUP), 40.520.040 (Site Plan Review), 40.320 (Landscaping and Screening), 40.430 (Parking Standards), 40.320 (Landscaping and Screening), 40.360 (Solid Waste), 40.370.010 (Sewer Connection, 40.570.080 (C) (3) (k) (Archaeology), 40.410 (CARA), 15.12 (Fire Code), 40.570 (SEPA), 40.510.030 (Procedure)

Neighborhood Association/Contact:

Andresen/St. Johns Neighborhood Association
Neil Chambers
6204 NE 67th Street
Vancouver, WA 98661
(360) 699-5719, E-mail: N.Chambers@comcast.net

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference on this matter was held on February 5, 2009. The pre-application was determined to be not contingently vested.

The application was submitted on September 4, 2009; but the submittal package was incomplete. The applicant submitted additional information on November 4, 2009, and the application was determined to be fully complete on November 24, 2009. Given these facts the application is vested on November 4, 2009 (i. e. the date the fully complete application was submitted). There are no disputes regarding vesting.

Time Limits:

The application was determined to be fully complete on November 24, 2009 (see Exhibit No. 9, Revised by Exhibit 10). The applicant was asked to submit additional information which extended the deadline by 60 days. Therefore, the County Code requirement for issuing a decision within 92 days lapses on April 25, 2010. The State requirement for issuing a decision within 120 calendar days, lapses on May 23, 2010.

Public Notice:

Notice of application and public hearing was mailed to the applicant, the Andresen/St. Johns Neighborhood Association and property owners within 300 feet of the site on December 31, 2009. One sign was posted on the subject property and two within the vicinity on February 10, 2009.

Public Comments:

The county received a letter from Carleen and Perry Stephens, Exhibit 13, who reside at 7006 NE 47th Avenue. The letter discusses traffic problems on NE 47th Avenue. The letter indicates that trucking traffic to and from the site usually poses potentially unsafe conditions that need to be mitigated. The letter concluded by suggesting that a stop sign should be posted where the driveway to the site intersects NE 147th Avenue to inform drivers to stop before proceeding to turn right or left onto NE 147th Avenue.

The letter was forwarded to Development Engineering staff for review.

Project Overview

The applicant is requesting a conditional use permit (CUP) and preliminary site plan approval for a long haul trucking terminal. The applicant also wants to continue to expand the storage of freight trailers onto the existing gravel area. The approximately 3.92 acre site is zoned ML.

The property had a previous site plan review approval in 1989, (Case #SPR89-116); but county records do not show that the site plan received final site plan approval. The site plan approved a 6,000 square foot building used as a truck repair shop; a 6,750 square foot paved parking area, and a 750 square foot wash bay. In 1995, a fast track review (Case #FT95-070), approved a change in use from truck repair to a dispatch yard for industrial cleaning services. Another site plan review (Case #PSR2004-00031) was withdrawn on August 7, 2007, by Taylor Trucking without completion.

There is a code enforcement case (Case #CDE2007-01980) that was instituted against Taylor Trucking for operating a trucking business at the site without site plan approval. Taylor Transport also converted the on-site grass septic drain field area into a gravel parking lot for vehicle storage and circulation without Health Department or Development Engineering review for stormwater compliance.

The proposed trucking business is permitted in the ML district as a conditional use with appropriate site plan review approval. Table 1 below shows the comprehensive plan designation, zoning, and current land use on the site and on the abutting properties:

Table 1: Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use
Site	Light Industrial (ML)	Light Industrial (ML)	The site has a depression at the driveway entrance at NE 147 th Avenue and what appears to be compromised wetland on the northwest corner. There is one building and two modular structures used as offices. There are several vehicles, and several trailers belonging to Child Truck Line parked on the property. The parking area is not tarred and there are no marked parking stalls. Blackberry bushes abound along the property lines especially on the north, east, and south sides.
North	ML	ML	Vacant.
East	Urban Low (UL)	R1-6	Single family housing development and a vacant parcel of land.
South	ML	ML	Vacant.
West	ML/EC	ML	Single family housing with undefined business activities, NE 147 th Avenue and vacant property.

The USDA Soil Conservation Service, Soil Survey of Clark County, Washington, 1972, classifies the soils at this site as those of Hillsboro silt loam (HIB, HIC) on slopes ranging from 3 to 15 percent. Maps from Clark County's GIS Mapping System do not indicate any critical areas on this site.

The property is located within the City of Vancouver's urban growth area (UGA). It is situated in an area served by Fire Protection District 5, Vancouver School District, South Orchards Traffic Impact Fees District, and Parks Improvement District 7. The City of Vancouver provides both public water and sewer services in the area.

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

- | | |
|---------------------------------|--|
| 1. Earth | 9. Housing |
| 2. Air | 10. Aesthetics |
| 3. Water | 11. Light and Glare |
| 4. Plants | 12. Recreation |
| 5. Animals | 13. Historic and Cultural Preservation |
| 6. Energy and Natural Resources | 14. Transportation |
| 7. Environmental Health | 15. Public Services |
| 8. Land and Shoreline Use | 16. Utilities |

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts could be mitigated through application of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposal not discussed below comply with the applicable code requirements.

LAND USE:

Finding 1

The applicant is requesting a conditional use permit and site plan review approval for a trucking terminal on approximately 3.92 acres zoned ML. Table 40.230.080-1 (4841) permits general freight trucking as a conditional use in the ML district subject to an approved site plan. As discussed in the Background section of this report, the property has had non-conforming uses, for which preliminary site plan approvals were obtained but final site plan approvals were not obtained. The previous owners or tenants also implemented site improvements that were never reviewed or approved by the county. This request will be required to comply with the minimum standards in the applicable conditional use permit (CUP) and site plan review sections of the code.

Conditional Use Permit Review Standards:

Finding 2

CCC 40.520.030 provides the general guidelines for CUP approval. CCC 40.520.030 (E) (1) authorizes the hearings examiner to impose other conditions found necessary to protect the best interest of the surrounding property or neighborhood. The examiner could establish conditions that may include but are not limited to:

- a. Increasing the required lot size or setback dimensions;
- b. Increasing street widths;
- c. Controlling the location and number of vehicular access points to the property;

- d. Increasing the number of off-street parking or loading spaces required;
- e. Limiting the number of signs;
- f. limiting the lot coverage or height of buildings because of obstructions to view and reduction of light and air to adjacent property;
- g. Limiting or prohibiting openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area (see CCC 40.320.010 (C) (4), Landscaping and Screening)); and,
- h. Establishing requirements under which any future enlargement or alteration of the use shall be reviewed by the county and new conditions imposed.

The hearings examiner must find that the establishment, maintenance or operation of the freight trucking business at this location will not be significantly detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of the trucking business, or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the county. (See CCC 40.520.030 (E) (1) (2), Actions by the hearings examiner))

Staff finds that the applicant has not demonstrated that the proposed freight trucking terminal at this location can comply with the applicable minimum CUP standards in the code, or that its operation will not be detrimental to public health and safety in the area. Even though no new building is proposed, and even though the applicant wants to comply with all applicable county laws, the preliminary site plan, as proposed, has the following deficiencies:

- 1. The parking lot is not paved;
- 2. Parking stalls are not provided for the long haul trailers and employees;
- 3. No handicapped parking is identified;
- 4. No landscaping is proposed for the site and no landscape islands are provided in the parking lot;
- 5. No stormwater and erosion control plan has been submitted; and,
- 6. Potential traffic deficiencies exist on the site.

These matters were first discussed with the applicant at the pre-application conference held on February 5, 2009. A letter (Exhibit 16) from the county dated January 8, 2010, identified these deficiencies for the applicant to address. Staff has not received any response from the applicant. It is difficult for staff to determine that the proposed site plan will, when implemented, comply with the minimum standards in the applicable code sections. Therefore, the applicant shall provide a preliminary site plan that addresses the issues outlined in the pre-application conference notes dated February 12, 2009, and the deficiencies identified in the early issues review letter dated January 8, 2010, prior to conditional use permit approval. (See Condition A-1a)

Industrial Development Standards

Finding 3

The proposed development must comply with the development standards in Table 40.230.080-2 as follows:

Table 3: Lot Setback, Lot Coverage and Building Height Requirements per CCC 40.230.080-2¹

Subject	ML
Minimum area of new zoning district	None
Maximum area of new zoning district	None
Minimum lot area	10,000 square feet
Minimum lot width	100 feet
Minimum lot depth	100 feet
Maximum building height	60 feet for buildings. No height limitation for towers in all industrial zones
Minimum building setback	
Front/street side	20 feet
Side (interior)	10 feet
Rear	15 feet
Maximum building coverage	50 percent
Minimum landscaped area/type	15 percent

Staff finds as follows after reviewing the proposed site plan:

1. Front yard setback:

The existing building (identified as office/shop in the site plan) has adequate front yard setback of 20 feet (or more) from NE 47th Avenue. This standard is met; therefore, no new condition is necessary.

2. Side yard setback:

The existing building (identified as office/shop in the site plan) has adequate side yard setback of 10 feet from the property southern property boundary. There are two modular structures located along the southern property boundary that may be closer to the property boundary than 15 feet. The proposed site plan does not indicate the building setbacks and dimensions; therefore, it is difficult for staff to find that the locations of these structures comply with the setback standard in the ML zone. It also appears that some employee parking stalls may encroach onto the front setback space along the western property boundary abutting Tax Lots 997290-000, 099727-000 and 099728-000.

Based upon the above analysis, the applicant needs to provide a site plan that ensures that adequate setback is provided along the western property boundary abutting Tax Lots 997290-000, 099727-000 and 099728-000. The applicant needs to also address the existing conditions along the southern property boundary prior to preliminary site plan approval. (See Conditions A-1b and A-8)

¹ See Table 40.230.080-2 for detail and clarification.

Commercial or Service use

Finding 4

The applicant is not proposing any new building construction. The code allows 10 percent of the total floor area of all the buildings in an industrial site to be used for commercial or service uses not identified in Table 40.230.080-1 (Uses) as a permitted use in the light industrial zoning district. Therefore, a note shall be placed on the final site plan stating that:

"If a commercial or service use is proposed on this site, it shall occupy a maximum of 10 percent of the total floor area of all the industrial structures on this site." (See Condition A-2b)

Outdoor Storage Standards:

Finding 5

In addition to the required landscape screening, this development shall comply with the following standards, where applicable (CCC 40.230.080 (D) (5)).

- a. All storage areas (including but not limited to areas used to store raw materials, finished and partially finished products and wastes) shall be screened from adjoining properties or public rights-of-way to the L4 standard.
- b. Screening shall be placed on all sides of storage areas other than where a building wall would act as a screen.
- c. Outdoor storage is prohibited as follows:
 - (1) In floodways;
 - (2) On slopes greater than fifteen percent (15%);
 - (3) In parking stalls required by Section 40.340 (Parking, Loading and Circulation);
 - (4) In areas where outdoor storage or display causes traffic or pedestrian circulation problems, as determined by the responsible official, or where a minimum five (5) foot-wide walkway does not remain clear and free of obstructions;
 - (5) Any materials that attract animals, birds or vermin; and
 - (6) In fire lanes.
- d. The applicant shall demonstrate that outdoor storage areas are adequately screened to minimize potential adverse impacts onto the neighboring residential properties to the east. (See Condition A-8)

Site Plan Review Standards:

Approval Criteria:

CCC 40.320.010 provides landscaping and screening standards on private property. Perimeter landscaping requires native trees of a suitable nature planted 30 feet to the center. The standards also require three or four shrubs to be planted between the trees, and the provision of appropriate ground cover (or grass). The zoning on the

abutting property to the development site determines the required landscaping type and buffer width.

Finding 6

The proposed development must provide the following buffers and landscaping schemes (per Table 40.320.010-1):

- a. On the north, the required landscaping is L1 within a 5 foot buffer;
- b. On the south, the required landscaping is L1 within a 5 foot wide buffer;
- c. On the east, the required landscaping is L5 within a 50 foot wide buffer or L4 within a 40 foot buffer; and,
- d. On the west, the required landscaping is L2 within a 10 foot buffer on the portion fronting NE 47th Avenue and L1 within a 5 foot buffer along the boundaries of Tax Lots 997290-000, 099727-000 and 099728-000.

Staff finds that the applicant has not proposed a landscaping plan with this request. Therefore, it is difficult for staff to determine that the applicant has met the burden of showing that the proposed site plan can comply with the minimum standards in the code. The applicant needs to provide a landscape plan that substantially complies with the minimum standard in the code prior to preliminary site plan approval. (See Condition A-8)

Off-Street Parking, Handicapped Parking and Pedestrian Circulation:

Finding 7

The proposed site plan identifies 46 stalls, identified as existing employee parking area. The site also shows a proposed paved area without any parking stalls marked. During site visit on January 22, 2010, staff found that the area was used to store long freight truck trailers.

Staff finds that the proposed site plan is deficient because:

- a. The site plan does not provide landscape islands in the parking area. The code requires one landscape island per 7 parking spaces. [See CCC 40.430.010 (E) (3)]
- b. The site plan does not identify any handicapped parking. The code requires that proposed developments in Clark County must provide parking that complies with the applicable local, state and federal standards regarding parking for disabled persons. [CCC 40.340.010 (B) (6) and Table 1106-1, International Building Code (IBC), 2003].
- c. The parking area is not paved and no parking stalls are shown. The pavement at the parking area was an issue that was discussed during the pre-application conference with the applicant. Even though the applicant's narrative indicates a willingness to comply with Clark County code sections, the site plan does not provide adequate information for a determination that the site plan, as proposed, can comply with the minimum standards in the code when implemented. [See CCC 40.340.010 (A) (8)]

- d. The site plan does not show that wheel curbs will prevent vehicles from overhanging onto the setback spaces and pedestrian circulation areas close to buildings. [See CCC 40.340.010 (B)]
- e. The site plan does not provide a pedestrian circulation path leading to NE 47th Street. [See CCC 40.340.010 (B) (3)]

Therefore, the applicant must provide a site plan showing paved parking stalls for vehicles and trailers that will comply with the minimum standard in the code when implemented, prior to preliminary site plan approval. (See Condition A-1c)

The applicant must provide a site plan that demonstrates that wheel stops or curb overhang will adequately prevent vehicles from hanging over the setback spaces or pedestrian circulation area. (See Condition A-1d)

Solid Waste Disposal

Finding 8

The proposed site plan shows an 8' x 10' (80 square feet) solid waste storage area nest to the main building. The code provides that the solid waste area be an enclosure with a gate. The applicant needs to revise the site plan to indicate a solid waste area that can comply with the minimum standards in CCC 40.360.010 (C) (2)) when implement. (See Condition A-1e)

Outdoors Lighting

Finding 9

The applicant did not submit a lighting plan for the parking plot. Outdoors lighting in the parking lot shall be consistent with RCW 47.36.180 standards for lighting near public roadways, and shall not cast significant light or glare off-site on adjacent properties, especially on NE 47th Avenue to the west and the residential properties to the east (per CCC 40.340.010 (A) (7)).

Therefore, the applicant shall provide a lighting plan indicating that proposed lighting on the parking lot does not cast significant light and glare off-sight on adjacent properties, especially on NE 47th Avenue to the west and the residential properties to the east, prior to preliminary site plan approval. (See Condition A-1f)

Loading Berth

Finding 10

Even though the main building is 6,000 square feet, staff finds that the proposed used does not need a loading and off-loading berth as specified in Table 40.340.010-1; therefore, this standard is met and no condition of approval is necessary.

Conclusion (Land Use):

Staff concludes that the proposed preliminary site plan does not comply with the applicable sections of Clark County Code section. Staff also concludes that if the applicant provides documentation that addresses the issues identified in this report, then the proposed site plan can comply with the applicable section of the code, subject to conditions identified above.

ARCHAEOLOGY:

The applicant has submitted an archaeological pre-determination to the State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application.

The DAHP concurs with the recommendation of the pre-determination that no additional studies are necessary; however, a note on the final construction plans will require that if resources are discovered during ground disturbance, work shall stop and DAHP and the county will be contacted. (See Condition A-2a)

Conclusion (Archaeology):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the archaeology requirements of the Clark County Code.

CRITICAL AQUIFER RECHARGE AREA (CARA):**Applicability****Finding 1**

The CARA code section applies to all critical aquifer recharge areas as defined in Section 40.410.010(C). Based on the county GIS mapping, the proposed project falls entirely in the area of a Category II, therefore, it may be subject to provisions of the CARA ordinance per CCC 40.410.020 depending on whether or not a Class V injection well is utilized for stormwater control or any current or future activities are listed in CCC 40.410.020 are applicable. The submittals does not include information regarding the scope of associated activities such as onsite fueling or repairing the trucks, therefore CARA permit may be required. The intent of the CARA code section is to protect groundwater that may be used in the future for drinking water or business purposes. (See Condition A-13)

Conclusion (CARA):

A CARA permit may be required per CCC 40.410.

TRANSPORTATION:**Roads****Finding 1**

NE 47th Ave. is classified as an "Urban Collector", C-2cb. Clark County Concurrence staff has determined that a traffic study is not required and additional trips are not being proposed. As a result, frontage improvements are not required; however, the applicant is responsible for the dedication of additional right-of-way for a total of 30-foot half-width right-of-way. Based on the county GIS mapping, the additional right-of-way is 3 feet. The applicant shall propose a driveway approach that is consistent with Standard Drawing number F17. (See Condition A-3a)

The applicant proposes to widen NE 47th Avenue to the required 20-foot width from the front of the parcel to approximately 200 feet to the north, to the southern property line of parcel 996660-000, the proposed NE 47th Avenue Industrial Park, (PSR2008-00008). All roads within the urban area providing access to parcels being developed, whether such roads are to be public or private, shall at a minimum have an unobstructed and paved roadway width of twenty (20) feet, except in those cases where the preexisting road is eighteen (18) feet wide with one (1) foot wide shoulders, additional widening to

the twenty (20) foot standard is not necessary. Any preexisting roadway narrower than eighteen (18) feet with one (1) foot shoulders shall be widened to the full twenty (20) foot standard. (See Condition A-3b)

Road Modifications

There are no road modifications associated with this proposal.

Sight Distance Analysis

Finding 2

The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance.

The applicant has not submitted a sight distance analysis to demonstrate compliance with the code requirements of CCC 40.350.030(B)(8). (See Condition A-3c)

Conclusion (Transportation):

Staff concludes that the proposed preliminary plan, subject to conditions identified above, meets the transportation requirements of the Clark County Code.

TRANSPORTATION CONCURRENCY:

Finding 1

Concurrency staff has reviewed this application for a conditional use and site plan approval to allow a trucking terminal and maintain an existing outdoor gravel storage area. The applicant has submitted a site plan that shows no proposed increase in the size of the existing building. Because there is no additional building square footage proposed, trips generated by this existing facility are assumed to be already 'on-the-road'; therefore, Concurrency has no further comments.

STORMWATER:

Stormwater Applicability

Finding 1

The provisions of Clark County Code Chapter 40.385 shall apply to all new development, redevelopment, and drainage projects consistent with the Stormwater Management Manual for Western Washington (SMMWW) as modified by CCC 40.385 and the county's stormwater manual. The project adds more than 5,000 square feet or more of new impervious surface and therefore the applicant shall comply with Minimum Requirements 1 through 10 for the new plus replaced impervious surfaces per CCC 40.385.020(A)(6)(b).

Stormwater Proposal

Finding 2

It is staff's understanding that except for an existing building and 6,750 square feet of paved parking area, all other existing impervious areas have not been previously permitted. The applicant has not submitted a preliminary stormwater plan that addresses the code requirements of CCC 40.385. Therefore, the applicant shall submit a preliminary stormwater plan that satisfies the code requirements of CCC 40.385. Staff is compelled to recommend denial as a result of CCC 40.385 not being addressed. The applicant has not demonstrated that infiltration is a feasible option nor addressed the

Clark County Stormwater Manual which requires a feasible overflow in case of infiltration system failure. (See Condition A-6a)

Site Conditions and Stormwater Issues:

Finding 3

Per CCC 40.385.020(C)(1)(a), no new development or redevelopment shall be allowed to materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (See Condition A-6b)

For stormwater facilities for which the county will not provide maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the standards in the county's Stormwater Facility Maintenance Manual pursuant to Section 13.26A.040. The responsible official shall approve such arrangements prior to county approval of the final stormwater plan. (See Condition A-6c)

The county shall inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060. Easements or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspection and maintenance of all privately maintained facilities. (See Condition A-6d)

Conclusion (Stormwater):

Staff concludes that the proposed preliminary stormwater plan is not feasible. Therefore, the requirements of the preliminary plan review criteria are not satisfied.

Staff is compelled to recommend Denial of the preliminary stormwater plan, however, in case the Hearing Examiner disagrees with staff, conditions of approval have been provided.

FIRE PROTECTION:

Fire Marshal Review

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063.

None

WATER & SEWER SERVICE:

Finding 1

The city of Vancouver provides public water and sewer services in the area. A utility review (Exhibit 2, tab 15) from the city indicates that sewer is 200 feet from the property line. The letter also concludes that sewer is not available to the site. CCC 40.370.010 (C) requires an industrial structure (including an existing industrial structure) to connect to public sewer system, except where an existing industrial structure does not materially

increase effluent production a sewer waiver can be approved using a Type 1 review process.

The existing septic system on the site had been compromised by the placement of gravel over the drain field. This situation needs to be redressed with the Clark County Health Department. The applicant must apply for a Type 1 septic waiver prior to preliminary site plan approval. (See Condition A-1g)

The applicant must also provide the necessary improvements to connect the building with public water provided by the city of Vancouver, if the building is not already so connected, prior to preliminary site plan approval. (See Condition A-9a)

Finding 2

Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or Prior to Occupancy). The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (if applicable). (See Condition A-9b)

Conclusion (Water & Sewer Service):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

IMPACT FEES:

Finding 1

The proposed development will have an impact on traffic in the area, and is subject to Traffic Impact Fees (TIF) in accordance with CCC 40.610 & 40.620. The site is located within the South Orchards TIF District and TIF has been calculated in the amount of \$111,612.34 (made up of \$16,741.85 Local Fees and \$94,870.49 Regional Fees) for the approximately 3.92-acre freight terminal.²

"The impact fees shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedules." (See Condition C-3)

SEPA DETERMINATION

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are

² Please if you dispute the TIF amount, contact Tahanni Essig at (360) 397-6118, ext. 5790 for explanation and alternative processes available to you. Please, refer to IFC2010-00007.

possible significant adverse environmental impacts associated with this proposal. The options include the following:

- **DS = Determination of Significance** (The impacts cannot be mitigated through conditions of approval therefore, requiring the preparation of an Environmental Impact Statement (EIS);
- **MDNS = Mitigated Determination of Non-Significance** (The impacts can be addressed through conditions of approval); or,
- **DNS = Determination of Non-Significance** (The impacts can be addressed by applying the County Code).

Determination:

Determination of Non-Significance (DNS): As lead agency, the county has determined that the requirements for environmental analysis, protection, and mitigation measures are adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws rules, as provided by RCW 43.21.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA. The proposal may include mitigation under applicable codes and the project review. This decision was made after review of a completed environmental checklist and other information on file with the County.

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on December 31, 2009, is hereby final.

SEPA Appeal Process:

An **appeal** of this SEPA determination and any required mitigation must be filed with the Community Development Department within fourteen (14) calendar days from the date of this notice. The SEPA appeal fee is **\$1,493**.

A **procedural appeal** is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-significance). A **substantive appeal** is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing County Code or other law.

Issues of compliance with existing approval standards and criteria can still be addressed in the public hearing without an appeal of this SEPA determination.

Both the **procedural and substantive appeals** must be filed within fourteen (14) calendar days of this determination. Such appeals will be considered in the scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

Appeals must be in writing and contain the following information:

1. The case number designated by the County and the name of the applicant;

2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. A brief statement describing why the SEPA determination is in error.

The decision of the Hearing Examiner is final unless there is:

- A motion if filed for reconsideration within fourteen (14) days of written notice of the decision, as provided under Clark County Code, Section 251.160; or,
- An appeal with Clark County Superior Court.

Staff Contact Person: Michael Uduk, (360) 397-2375, ext. 4385

Responsible Official: Michael V. Butts

**Public Service Center
Community Development Department
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011
Web Page at: <http://www.clark.wa.gov>**

RECOMMENDATION

Based upon the proposed plan (identified as Exhibit 5), and the findings and conclusions stated above, staff recommends the Hearings Examiner **DENY** this request because:

1. The applicant has failed to demonstrate that the site plan will comply with the minimum standards in the applicable conditional use permit and site plan review sections of the code; and,
2. The applicant has failed to demonstrate that the site plan will comply with the minimum standards in the applicable stormwater and erosion control ordinance.

If, however, the Hearings Examiner finds in the record adequate documentation to the contrary, the Hearings Examiner may approve the request subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Please Note:

1. Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a "hearing extension" or "open record" and shall pay the associated fee.
2. Even though staff recommends denial of the conditional use and site plan review requests, the following conditions of approval have been suggested in the event that the Hearings Examiner finds adequate documentation in the record to warrant an approval.

Conditions of Approval

A Final Construction/Site Plan Review

Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction/Site Plan shall be submitted for review and approved, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Land Use:

- a. The applicant shall provide a site plan that demonstrates that it can comply with the applicable minimum conditional use permit and site plan review standards in the code prior to preliminary site plan approval. (See Land Use Finding 2)
- b. The applicant shall provide a site plan that demonstrates that adequate setback is provided along the western property boundary abutting Tax Lots 997290-000, 099727-000 and 099728-000. The applicant must also address the existing conditions along the southern property boundary prior to preliminary site plan approval. (See Land Use Finding 3)
- c. The applicant shall provide a site plan that demonstrates that the parking areas are paved and provide adequately marked parking stalls for vehicles, including handicapped parking spaces prior to preliminary site plan approval. (See Land Use Finding 7)
- d. The applicant shall provide a site plan that demonstrates that wheel stops or curb overhang will adequately prevent vehicles from hanging over the setback spaces or pedestrian circulation areas prior to preliminary site plan approval. (See Land Use Finding 7)
- e. The applicant shall provide a site plan that shows an enclosed solid waste disposal area. If a compactor is proposed, then the site plan shall identify its location prior to preliminary site plan approval. (See land Use Finding 8)

- f. If outdoors lighting is proposed, then the applicant shall provide a lighting plan indicating that lighting on the parking lot will not cast significant light and glare off-sight onto adjacent properties, especially on NE 47th Avenue to the west and the residential properties to the east, prior to preliminary site plan approval. (See Land Use Finding 9)
- g. The applicant must apply for a Type 1 sewer waiver prior to preliminary site plan approval to retain the existing septic system on the site. (See Water and Sewer Finding 1)

A-2 Final Site Plan:

The applicant shall submit and obtain County approval of a final site plan in conformance to CCC 40.320.040 and the following conditions of approval:

a. Archaeology

A note shall be placed on the face of the final construction plans as follows:

"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

b. *A note shall be placed on the final site plan stating as follows:*

"If a commercial or service use is proposed, it shall occupy a maximum of 10 percent of the total floor area of all the buildings used for industrial activities."
(See land Use Finding 4)

A-3 Final Transportation Plan/On-Site:

The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. The applicant is responsible for the dedication of 30 feet of half-width right-of-way along the frontage of the project. The applicant shall propose a driveway approach that is consistent with standard drawing number F17. (See Transportation Finding #1)
- b. The applicant shall comply with the off-site road improvement requirements of CCC 40.350.030 (B)(6)(b)(1). (See Transportation Finding #1)
- c. The applicant has not submitted a sight distance analysis and demonstrate compliance with the code requirements of CCC 40.350.030(B)(8). (See Transportation Finding #2)

A-4 Final Transportation Plan/Off Site (Concurrency):

The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350.

None

A-5 Transportation:

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-6 Final Stormwater Plan:

The applicant shall submit and obtain County approval of a final stormwater plan for on and off-site facilities (as applicable), designed in conformance to CCC 40.385 and the following conditions of approval:

- a. The applicant shall submit a preliminary stormwater plan that satisfies the code requirements of CCC 40.385. (See Stormwater Finding 2)
- b. Per CCC 40.385.020(C) (1)(a),, no new development or redevelopment shall be allowed to materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (See Stormwater Finding 2)
- c. For stormwater facilities for which the county will not provide maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the standards in the county's Stormwater Facility Maintenance Manual pursuant to Section 13.26A.040. The responsible official shall approve such arrangements prior to county approval of the final stormwater plan. (See Stormwater Finding 2)
- d. Easements or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspection and maintenance of all privately maintained facilities. (See Stormwater Finding 2)

A-7 Erosion Control Plan:

The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.385.

A-8 Final Landscape Plan:

The applicant shall submit and obtain county approval of a preliminary landscape plan per Table 40.320.010-1 prior to preliminary site plan review as follows:

- a. On the north, the required landscaping is either L1 within a 5 foot buffer;
- b. On the south, the required landscaping is L1 within a 5 foot wide buffer;
- c. On the east, the required landscaping is L5 within a 50 foot wide buffer or L4 within a 40 foot wide buffer; and,

- d. On the west, the required landscaping is L2 within a 10 foot buffer on the portion fronting NE 47th Avenue and L1 within a 5 foot buffer along the boundary of Tax Lots 997290-000, 099727-000 and 099728-000. (See Land Use Findings 5 and 6)

A-9 Health Department Review:

- a. The applicant must also provide the necessary improvements to connect the building with public water provided by the city of Vancouver, if the building is not already so connected, prior to preliminary site plan approval. (See Water and Sewer Finding 1)
- b. Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department. (See Water and Sewer Finding 2)

A-10 Fire Marshal Requirements:

None

A-11 Other Documents Required:

The following documents shall be submitted with the Final Construction/Site Plan:

- a. Stormwater Maintenance Covenant: - A "Developer Covenant to Clark County" shall be submitted for recording that specifies the following Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. An access easement to the private facilities for the purpose of inspection shall be granted to the county. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060

A-12 Excavation and Grading:

Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

A-13 Critical Aquifer Recharge Areas (CARA):

The applicant shall submit and obtain approval for a CARA permit if applicable prior to final site plan approval.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

B-1 Pre-Construction Conference:

Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.

B-2 Erosion Control:

Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

B-3 Erosion Control:

Erosion control facilities shall not be removed without County approval.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

C-1 Stormwater:

The installation of infiltration systems shall be observed and documented by a licensed engineer in the State of Washington proficient in geotechnical engineering. During the construction, the geotechnical engineer shall verify that the infiltration rates used in the final stormwater analysis are obtained at the exact locations and depths of the proposed stormwater infiltration facilities. The infiltration investigation shall include laboratory analysis based on AASHTO Specification M145. The timing of representative infiltration tests will be determined at the pre-construction conference.

C-2 Verification of the Installation of Required Right-of-way Landscape:

Prior to the issuance of an approval of occupancy for a site plan, the applicant shall provide verification in accordance with Section 40.320.030(B) that the required right-of-way landscape has been installed in accordance with the approved landscape plan(s).

C-3 Impact Fees:

Prior to issuance of a building permit, the applicant shall pay Traffic Impact fees to the Clark County Building Department in the amount of \$111,612.34 (made up of \$16,741.85 Local Fees and \$94,870.49 Regional Fees) for the approximately 3.92-acre freight terminal.

If the building permit application is made more than three years following the date of preliminary site plan approval, the impact fees shall be recalculated according to the then-current rate. (See Impact Fees Finding 1)

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

D-1 Not Applicable

E	Building Permits Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

E-1 None

F	Occupancy Permits Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 Land Use:

- a. Landscaping: Prior to the issuance of an approval of occupancy for final site plan, the applicant shall submit a copy of the approved landscape plan(s) with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
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G-1 Site Plans and Other Land Use Approvals:

Within 5 years of preliminary plan approval, a Fully Complete application for a building permit shall be submitted.

G-2 Department of Ecology Permit for Construction Stormwater:

A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

G-3 Building Elevation Approvals:

Approval of building elevations submitted for preliminary plan review does not ensure compliance with other requirements (e.g., building setbacks) under other construction codes. Compliance with other construction codes is the responsibility of the applicant at the time of building permit issuance.

H	Post Development Requirements Review & Approval Authority: As specified below
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H-1 Outdoor Lighting:

Exterior lighting shall be located, shielded, and directed to prevent significant off site glare, in accordance with CCC 40.340.010(A)(7) and RCW 47.36.180. (See Land Use Finding 9)

HEARING EXAMINER DECISION AND APPEAL PROCESS

This report to the Hearing Examiner is a recommendation from the Development Services Division of Clark County, Washington.

The Examiner may adopt, modify or reject this recommendation. The Examiner will render a decision within 14 calendar days of closing the public hearing. The County will mail a copy of the decision to the applicant and neighborhood association within 7 days of receipt from the Hearing Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearing Examiner.

Motion for Reconsideration:

Any party of record to the proceeding before the hearings examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which not fee will be charged;
- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.

Appeal Rights:

Any party of record to the proceeding before the hearing examiner may appeal any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), to the Superior Court.

Attachments:

- Copy of Proposed Preliminary Plan
- Exhibit List

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

**Public Service Center
Community Development Department
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011**

A copy of the Clark County Code is also available on our Web Page at:
Web Page at: <http://www.clark.wa.gov>

Final Decision Attachment

For Employee Use Only - This is not part of the decision, but rather an attachment for processing purposes only.

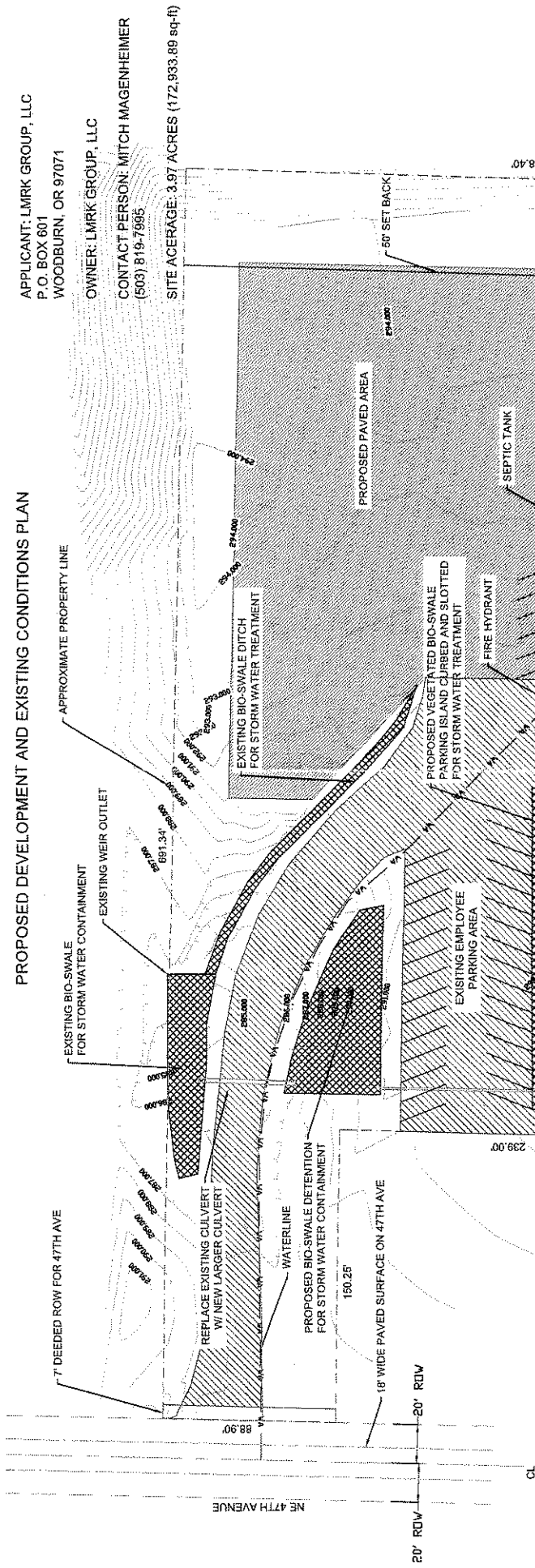
Final Plans Required with Construction Plans	YES	NO
Final Landscape Plan:	X	
-On-site landscape plan	X	
-Right-of-way landscape plan*		X
Final Wetland Plan		X
Final Habitat Plan		X

*Final right-of-way landscape plan required for projects fronting on arterial and collector streets.

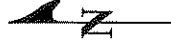
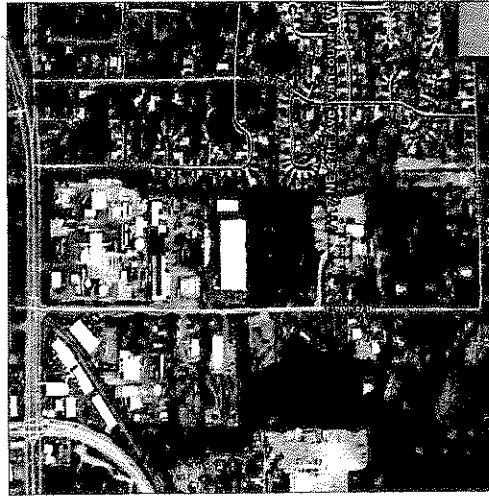
Note: If final plan submittals are required, list each plan under Case Notes in Permit Plan for future reference.

PROPOSED DEVELOPMENT AND EXISTING CONDITIONS PLAN

APPLICANT: LMRK GROUP, LLC
P.O. BOX 801
WOODBURN, OR 97071
OWNER: LMRK GROUP, LLC
CONTACT PERSON: MITCH MAGENHEIMER
(503) 819-7895
SITE ACREAGE: 3.97 ACRES (172,933.89 sq-ft)



VICINITY MAP



NOTE:
NO NEW CONSTRUCTION PROPOSED

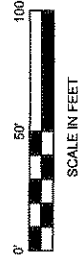


EXHIBIT # 5



HEARING EXAMINER EXHIBITS

Project Name: OUTSIDE STORAGE AREA EXPANSION

Case Number: CUP2009-00009; PSR2009-00035; SEP2009-00077

Hearing Date: 2/25/10

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	9/4/09	The LMRK Group, LLC	11x17 Map
6	9/4/09	The LMRK Group, LLC	Electronic Submittal Package: Application Form, Pre-App Rpt, GIS Packet, Narrative, Legal Lot Determination, Approved Plats Abutting Site, Proposed Dev Plan, Soil Analysis Rpt, Stormwater Design Rpt/Plan, Engineer Statement, Proposed Phasing Plan, Traffic Study, SEPA, Sewer Dist Ltr, Water Utility Ltr,
7	09/25/09	CC Development Services	NOT Fully Complete Letter
8	10/26/09	CC Development Services	SECOND NOT Fully Complete Letter
9	11/24/09	CC Development Services	Fully Complete Letter
10	11/24/09	CC Development Services	REVISED Fully Complete Letter
11	12/31/09	CC Development Services	Notice of Type III Dev Rev, Optional SEPA & Public Hearing
12	12/31/09	CC Development Services	Affidavit of Mailing Public Notice
13	1/6/10	Carleen Stephens/Perry Stephens	Public comments
14	1/8/10	Tina Hallock, Southwest Clean Air Agency (SWCAA)	SEPA comments
15	1/14/10	WS Dept. of Ecology	SEPA comments
16	1/8/10	M. Uduk, Community Services	30-day early issues meeting notes to applicant
17	2/8/10	CC Development Services	Notice of Public Hearing

18	2/9/10	CC Development Services	Affidavit of Posting Type III Public Notice
19	2/10/10	CC Development Services – Michael Uduk	Type III Development & Environmental Review, Staff Report & Recommendation
20			
21			

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810